

CDPS GENERAL PERMIT
STORMWATER DISCHARGES ASSOCIATED WITH
CONSTRUCTION ACTIVITY
AUTHORIZATION TO DISCHARGE UNDER THE
COLORADO DISCHARGE PERMIT SYSTEM

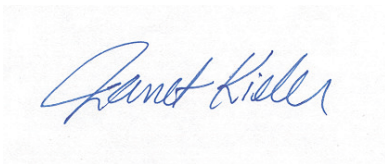
In compliance with the provisions of the Colorado Water Quality Control Act, (25-8-101 et seq., CRS, 1973 as amended) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.; the "Act"), this permit authorizes the discharge of stormwater associated with construction activities (and specific allowable non-stormwater discharges in accordance with Part I.D.3 of the permit) certified under this permit, from those locations specified throughout the State of Colorado to specified waters of the State. Such discharges shall be in accordance with the conditions of this permit.

This permit specifically authorizes the facility listed on the certification page (page 1) of this permit to discharge, as of this date, in accordance with permit requirements and conditions set forth in Parts I and II hereof. All discharges authorized herein shall be consistent with the terms and conditions of this permit.

This permit and the authorization to discharge shall expire at midnight, **June 30, 2012.**

Issued and Signed this 31st day of May, 2007

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Janet S. Kieler
Permits Section Manager
Water Quality Control Division

SIGNED AND ISSUED MAY 31, 2007

EFFECTIVE JULY 1, 2007

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PART I

A. COVERAGE UNDER THIS PERMIT

1. **Authority to Discharge**

Under this permit, facilities are granted authorization to discharge stormwater associated with construction activities into waters of the state of Colorado. This permit also authorizes the discharge of specific allowable non-stormwater discharges, in accordance with Part I.D.3 of the permit, which includes discharges to the ground. This includes stormwater discharges from areas that are dedicated to producing earthen materials, such as soils, sand and gravel, for use at a single construction site (i.e., borrow or fill areas). This permit also authorizes stormwater discharges from dedicated asphalt batch plants and dedicated concrete batch plants. (Coverage under the construction site permit is not required for batch plants if they have alternate CDPS permit coverage.) This permit does not authorize the discharge of mine water or process water from such areas.

- a) **Applicable Sections:** In accordance with Part I.A.3 of this permit, some parts of this permit do not apply to sites covered under a Qualifying Local Program, as defined in I.A.2.d. For sites not covered by a Qualifying Local Program, all parts of the permit apply except Part I.A.3. The permittee will be responsible for determining and then complying with the applicable sections.
- b) **Oil and Gas Construction:** Stormwater discharges associated with construction activities directly related to oil and gas exploration, production, processing, and treatment operations or transmission facilities are regulated under the Colorado Discharge Permit System Regulations (5CCR 1002-61), and require coverage under this permit in accordance with that regulation. However, references in this permit to specific authority under the Federal Clean Water Act (CWA) do not apply to stormwater discharges associated with these oil and gas related construction activities, to the extent that the references are limited by the federal Energy Policy Act of 2005.

2. **Definitions**

- a) **Stormwater:** Stormwater is precipitation-induced surface runoff.
- b) **Construction activity:** Construction activity refers to ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.
- c) **Small construction activity:** Stormwater discharge associated with small construction activity means the discharge of stormwater from construction activities that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.
- d) **Qualifying Local Program:** This permit includes conditions that incorporate qualifying local erosion and sediment control program (Qualifying Local Program) requirements by reference. A Qualifying Local Program is a municipal stormwater program for stormwater discharges associated with small construction activity that has been formally approved by the Division.

Other Definitions: Definitions of additional terms can be found in Part I.E. of this permit.

3. **Permit Coverage Without Application – for small construction activities under a Qualifying Local Program only**

If a small construction site is within the jurisdiction of a Qualifying Local Program, the operator of the construction activity is authorized to discharge stormwater associated with small construction activity under this general permit without the submittal of an application to the Division.

- a) **Applicable Sections:** For sites covered by a Qualifying Local Program, only Parts 1.A.1, 1.A.2, 1.A.3, I.D.1, I.D.2, I.D.3, I.D.4, I.D.7, I.D.8, I.D.11, I.E and Part II of this permit, with the exception of Parts II.A.1, II.B.3, II.B.8, and II.B10, apply.

A. COVERAGE UNDER THIS PERMIT (cont.)

- b) **Local Agency Authority:** This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm drain systems or other water courses within their jurisdiction.
- c) **Permit Coverage Termination:** When a site under a Qualifying Local Program has been finally stabilized, coverage under this permit is automatically terminated.
- d) **Compliance with Qualifying Local Program:** A construction site operator that has authorization to discharge under this permit under Part I.A.3 shall comply with the requirements of the Qualifying Local Program with jurisdiction over the site.
- e) **Full Permit Applicability:** The Division may require any operator within the jurisdiction of a Qualifying Local Program covered under this permit to apply for and obtain coverage under the full requirements of this permit. The operator must be notified in writing that an application for full coverage is required. When a permit certification under this permit is issued to an operator that would otherwise be covered under Part I.A.3 of this permit, the full requirements of this permit replace the requirements as per Part I.A.3 of this permit, upon the effective date of the permit certification. A site brought under the full requirements of this permit must still comply with local stormwater management requirements, policies or guidelines as required by Part I.D.1.g of this permit.

4. **Application, Due Dates**

- a) **Application Due Dates:** At least **ten calendar days** prior to the commencement of construction activities, the applicant shall submit an application form as provided by the Division, with a certification that the Stormwater Management Plan (SWMP) is complete.

One original completed discharge permit application shall be submitted, by mail or hand delivery, to:

Colorado Department of Public Health and Environment
Water Quality Control Division
WQCD-Permits-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

- b) **Summary of Application:** The application requires, at a minimum, the following:
 - 1) The applicant's company name; address; telephone number; and email address (if available); whether the applicant is the owner, developer, or contractor; and local contact information;
 - 2) Project name, address, county and location of the construction site, including the latitude and longitude to the nearest 15 seconds of the approximate center of the construction activity;
 - 3) Legal description or map of the construction site;
 - 4) Estimates of: the total area of the site, the area of the site that is expected to be disturbed, and the total area of the larger common plan of development or sale to undergo disturbance;
 - 5) The nature of the construction activity;
 - 6) The anticipated start date and final stabilization date for the project;
 - 7) The name of the receiving water(s), or the municipal separate storm sewer system and the ultimate (i.e., named) receiving water(s);
 - 8) Certification that the SWMP for the construction site is complete (see Part I.C. below); and
 - 9) The signature of the applicant, signed in accordance with Part I.F.1 of this permit.

5. **Permit Certification Procedures**

If this general permit is appropriate for the applicant's operation, then a certification will be developed and the applicant will be authorized to discharge stormwater under this general permit.

- a) **Request for Additional Information:** The Division shall have up to **ten calendar days** after receipt of the above information to request additional data and/or deny the authorization for any particular discharge. Upon receipt of additional information, the Division shall have an additional **ten calendar days** to issue or deny authorization for the particular discharge. (Notification of denial shall be by letter, in cases where coverage under an alternate general permit or an individual permit is required, instead of coverage under this permit.)

A. COVERAGE UNDER THIS PERMIT (cont.)

- b) **Automatic Coverage:** If the applicant does not receive a request for additional information or a notification of denial from the Division dated within ten calendar days of receipt of the application by the Division, authorization to discharge in accordance with the conditions of this permit shall be deemed granted.
- c) **Individual Permit Required:** If, after evaluation of the application (or additional information, such as the SWMP), it is found that this general permit is not appropriate for the operation, then the application will be processed as one for an individual permit. The applicant will be notified of the Division's decision to deny certification under this general permit. For an individual permit, additional information may be requested, and 180 days may be required to process the application and issue the permit. At the Division's discretion, temporary coverage under this general permit may be allowed until the individual permit goes into effect.
- d) **General vs. Individual Permit Coverage:** Any permittee authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual CDPS permit. The permittee shall submit an individual application, with reasons supporting the request, to the Division at least 180 days prior to any discharge.
- e) **Local Agency Authority:** This permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm drain systems or other water courses within their jurisdiction.

6. **Inactivation Notice**

When a site has been finally stabilized in accordance with the SWMP, the permittee must submit an **Inactivation Notice** form that is signed in accordance with Part I.F.1. of this permit. The Inactivation Notice form is available from the Division and includes:

- a) Permit certification number;
- b) The permittee's name, address, telephone number;
- c) Name, location, and county for the construction site for which the inactivation notice is being submitted; and
- d) Certification that the site has been finally stabilized, and a description of the final stabilization method(s).

7. **Transfer of Permit**

When responsibility for stormwater discharges at a construction site changes from one entity to another, the permittee shall submit a completed **Notice of Transfer and Acceptance of Terms** form that is signed in accordance with Part I.F.1. of this permit. The Notice of Transfer form is available from the Division and includes:

- a) Permit certification number;
- b) Name, location, and county for the construction site for which the Notice of Transfer is being submitted;
- c) Identifying information for the new permittee;
- d) Identifying information for the current permittee; and
- e) Effective date of transfer.

If the new responsible party will not complete the transfer form, the permit may be inactivated upon written request to the Division and completion of the Inactivation Notice if the permittee has no legal responsibility, through ownership or contract, for the construction activities at the site. In this case, the new owner or operator would be required to obtain permit coverage separately.

8. **Reassignment of Permit**

When a permittee no longer has control of a specific portion of a permitted site, and wishes to transfer coverage of that portion of the site to a second party, the permittee shall submit a completed **Notice of Reassignment of Permit Coverage** form that is signed in accordance with Part I.F.1. of this permit. The Notice of Reassignment of Permit Coverage form is available from the Division and includes:

- a) Current permit certification number;
- b) Identifying information and certification as required by Part I.A.4.b for the new permittee;
- c) Identifying information for the current permittee, revised site information and certification for reassignment; and
- d) Effective date of reassignment.

A. COVERAGE UNDER THIS PERMIT (cont.)

If the new responsible party will not complete the reassignment form, the applicable portion of the permitted site may be removed from permit coverage upon written request to the Division if the permittee has no legal responsibility, through ownership or contract, for the construction activities at the portion of the site. In this case, the new owner or operator would be required to obtain permit coverage separately.

9. **Sale of Residence to Homeowners**

For residential construction only, when a residential lot **has been conveyed to a homeowner** and all criteria in paragraphs a through e, below, are met, coverage under this permit is no longer required and the conveyed lot may be removed from coverage under the permittee's certification. At such time, the permittee is no longer responsible for meeting the terms and conditions of this permit for the conveyed lot, including the requirement to transfer or reassign permit coverage. The permittee remains responsible for inactivation of the original certification.

- a) The lot has been sold to the homeowner(s) for private residential use;
- b) the lot is less than one acre of disturbed area;
- c) all construction activity conducted by the permittee on the lot is completed;
- d) a certificate of occupancy (or equivalent) has been awarded to the home owner; and
- e) the SWMP has been amended to indicate the lot is no longer covered by permit.

Lots not meeting all of the above criteria require continued permit coverage. However, this permit coverage may be transferred (Part I.A.7, above) or reassigned (Part I.A.8, above) to a new owner or operator.

10. **Permit Expiration Date**

Authorization to discharge under this general permit shall expire on June 30, 2012. The Division must evaluate and reissue this general permit at least once every five years and must recertify the permittee's authority to discharge under the general permit at such time. Therefore, a permittee desiring continued coverage under the general permit must reapply by March 31, 2012. The Division will initiate the renewal process; however, it is ultimately the permittee's responsibility to ensure that the renewal is submitted. The Division will determine if the permittee may continue to operate under the terms of the general permit. An individual permit may be required for any facility not reauthorized to discharge under the reissued general permit.

11. **Individual Permit Criteria**

Various criteria can be used in evaluating whether or not an individual (or alternate general) permit is required instead of this general permit. This information may come from the application, SWMP, or additional information as requested by the Division, and includes, but is not limited to, the following:

- a) the quality of the receiving waters (i.e., the presence of downstream drinking water intakes or a high quality fishery, or for preservation of high quality water);
- b) the size of the construction site;
- c) evidence of noncompliance under a previous permit for the operation;
- d) the use of chemicals within the stormwater system; or
- e) discharges of pollutants of concern to waters for which there is an established Total Maximum Daily Load (TMDL).

In addition, an individual permit may be required when the Division has shown or has reason to suspect that the stormwater discharge may contribute to a violation of a water quality standard.

B. STORMWATER MANAGEMENT PLAN (SWMP) – **GENERAL REQUIREMENTS**

- 1. A SWMP shall be developed for each facility covered by this permit. The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices. (The SWMP need not be prepared by a registered engineer.)

B. STORMWATER MANAGEMENT PLAN (SWMP) – **GENERAL REQUIREMENTS** (cont.)

2. The SWMP shall:
 - a) Identify all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the facility;
 - b) Describe the practices to be used to reduce the pollutants in stormwater discharges associated with construction activity at the facility; and ensure the practices are selected and described in accordance with good engineering practices, including the installation, implementation and maintenance requirements; and
 - c) Be properly prepared, and updated in accordance with Part I.D.5.c, to ensure compliance with the terms and conditions of this permit.
3. Facilities must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete, as a condition of this permit. The Division reserves the right to review the SWMP, and to require the permittee to develop and implement additional measures to prevent and control pollution as needed.
4. The SWMP may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the CWA, or Best Management Practices (BMPs) Programs otherwise required by a separate CDPS permit, and may incorporate any part of such plans into the SWMP by reference, provided that the relevant sections of such plans are available as part of the SWMP consistent with Part I.D.5.b.
5. For any sites with permit coverage before June 30, 2007, the permittee's SWMP must meet the new SWMP requirements as summarized in Section II.I of the rationale. Any needed changes must be made by **October 1, 2007**.

C. STORMWATER MANAGEMENT PLAN (SWMP) – **CONTENTS**

The SWMP shall include the following items, at a minimum.

1. **Site Description.** The SWMP shall clearly describe the construction activity, to include:
 - a) The nature of the construction activity at the site.
 - b) The proposed sequence for major activities.
 - c) Estimates of the total area of the site, and the area and location expected to be disturbed by clearing, excavation, grading, or other construction activities.
 - d) A summary of any existing data used in the development of the site construction plans or SWMP that describe the soil or existing potential for soil erosion.
 - e) A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
 - f) The location and description of all potential pollution sources, including ground surface disturbing activities (see Part I.A.2.b), vehicle fueling, storage of fertilizers or chemicals, etc.
 - g) The location and description of any anticipated allowable sources of non-stormwater discharge at the site, e.g., uncontaminated springs, landscape irrigation return flow, construction dewatering, and concrete washout.
 - h) The name of the receiving water(s) and the size, type and location of any outfall(s). If the stormwater discharge is to a municipal separate storm sewer system, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).
2. **Site Map.** The SWMP shall include a legible site map(s), showing the entire site, identifying:
 - a) construction site boundaries;
 - b) all areas of ground surface disturbance;
 - c) areas of cut and fill;
 - d) areas used for storage of building materials, equipment, soil, or waste;
 - e) locations of dedicated asphalt or concrete batch plants;
 - f) locations of all structural BMPs;
 - g) locations of non-structural BMPs as applicable; and
 - h) locations of springs, streams, wetlands and other surface waters.

C. STORMWATER MANAGEMENT PLAN (SWMP) – CONTENTS (cont.)

3. **Stormwater Management Controls.**

The SWMP must include a description of all stormwater management controls that will be implemented as part of the construction activity to control pollutants in stormwater discharges. The appropriateness and priorities of stormwater management controls in the SWMP shall reflect the potential pollutant sources identified at the facility.

The description of stormwater management controls shall address the following components, at a minimum:

- a) **SWMP Administrator** - The SWMP shall identify a specific individual(s), position or title who is responsible for developing, implementing, maintaining, and revising the SWMP. The activities and responsibilities of the administrator shall address all aspects of the facility's SWMP.
- b) **Identification of Potential Pollutant Sources** - All potential pollutant sources, including materials and activities, at a site must be evaluated for the potential to contribute pollutants to stormwater discharges. The SWMP shall identify and describe those sources determined to have the potential to contribute pollutants to stormwater discharges, and the sources must be controlled through BMP selection and implementation, as required in paragraph (c), below.

At a minimum, each of the following sources and activities shall be evaluated for the potential to contribute pollutants to stormwater discharges, and identified in the SWMP if found to have such potential:

- 1) all disturbed and stored soils;
 - 2) vehicle tracking of sediments;
 - 3) management of contaminated soils;
 - 4) loading and unloading operations;
 - 5) outdoor storage activities (building materials, fertilizers, chemicals, etc.);
 - 6) vehicle and equipment maintenance and fueling;
 - 7) significant dust or particulate generating processes;
 - 8) routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, oils, etc.;
 - 9) on-site waste management practices (waste piles, liquid wastes, dumpsters, etc.);
 - 10) concrete truck/equipment washing, including the concrete truck chute and associated fixtures and equipment;
 - 11) dedicated asphalt and concrete batch plants;
 - 12) non-industrial waste sources such as worker trash and portable toilets; and
 - 13) other areas or procedures where potential spills can occur.
- c) **Best Management Practices (BMPs) for Stormwater Pollution Prevention** - The SWMP shall identify and describe appropriate BMPs, including, but not limited to, those required by paragraphs 1 through 8 below, that will be implemented at the facility to reduce the potential of the sources identified in Part I.C.3.b to contribute pollutants to stormwater discharges. The SWMP shall clearly describe the installation and implementation specifications for each BMP identified in the SWMP to ensure proper implementation, operation and maintenance of the BMP.
 - 1) **Structural Practices for Erosion and Sediment Control**. The SWMP shall clearly describe and locate all structural practices implemented at the site to minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
 - 2) **Non-Structural Practices for Erosion and Sediment Control**. The SWMP shall clearly describe and locate, as applicable, all non-structural practices implemented at the site to minimize erosion and sediment transport. Description must include interim and permanent stabilization practices, and site-specific scheduling for implementation of the practices. The SWMP should include practices to ensure that existing vegetation is preserved where possible. Non-structural practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees, and preservation of mature vegetation.

C. STORMWATER MANAGEMENT PLAN (SWMP) – CONTENTS (cont.)

- 3) Phased BMP Implementation. The SWMP shall clearly describe the relationship between the phases of construction, and the implementation and maintenance of both structural and non-structural stormwater management controls. The SWMP must identify the stormwater management controls to be implemented during the project phases, which can include, but are not limited to, clearing and grubbing; road construction; utility and infrastructure installation; vertical construction; final grading; and final stabilization.
- 4) Materials Handling and Spill Prevention. The SWMP shall clearly describe and locate all practices implemented at the site to minimize impacts from procedures or significant materials (see definitions at Part I.E.) that could contribute pollutants to runoff. Such procedures or significant materials could include: exposed storage of building materials; paints and solvents; fertilizers or chemicals; waste material; and equipment maintenance or fueling procedures.

Areas or procedures where potential spills can occur must have spill prevention and response procedures identified in the SWMP.

- 5) Dedicated Concrete or Asphalt Batch Plants. The SWMP shall clearly describe and locate all practices implemented at the site to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants covered by this certification.
- 6) Vehicle Tracking Control. The SWMP shall clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking. Practices must be implemented for all areas of potential vehicle tracking, and can include: minimizing site access; street sweeping or scraping; tracking pads; graveled parking areas; requiring that vehicles stay on paved areas on-site; wash racks; contractor education; and/or sediment control BMPs, etc.
- 7) Waste Management and Disposal, Including Concrete Washout.
 - i) The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from all construction site wastes (liquid and solid), including concrete washout activities.
 - ii) The practices used for concrete washout must ensure that these activities do not result in the contribution of pollutants associated with the washing activity to stormwater runoff.
 - iii) Part I.D.3.c of the permit authorizes the conditional discharge of concrete washout water to the ground. The SWMP shall clearly describe and locate the practices to be used that will ensure that no washout water from concrete washout activities is discharged from the site as surface runoff or to surface waters.
- 8) Groundwater and Stormwater Dewatering.
 - i) The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.
 - ii) Part I.D.3.d of the permit authorizes the conditional discharge of construction dewatering to the ground. For any construction dewatering of groundwater not authorized under a separate CDPS discharge permit, the SWMP shall clearly describe and locate the practices to be used that will ensure that no groundwater from construction dewatering is discharged from the site as surface runoff or to surface waters.

4. Final Stabilization and Long-term Stormwater Management

- a) The SWMP shall clearly describe the practices used to achieve final stabilization of all disturbed areas at the site, and any planned practices to control pollutants in stormwater discharges that will occur after construction operations have been completed at the site.
- b) Final stabilization practices for obtaining a vegetative cover should include, as appropriate: seed mix selection and application methods; soil preparation and amendments; soil stabilization practices (e.g., crimped straw, hydro mulch or rolled erosion control products); and appropriate sediment control BMPs as needed until final stabilization is achieved; etc.

C. STORMWATER MANAGEMENT PLAN (SWMP) – CONTENTS (cont.)

- c) Final stabilization is reached when all ground surface disturbing activities at the site have been completed, and uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.

The Division may, after consultation with the permittee and upon good cause, amend the final stabilization criteria in this section for specific operations.

5. **Inspection and Maintenance**

Part I.D.6 of the permit includes requirements for site inspections. Part I.D.7 of the permit includes requirements for BMP maintenance. The SWMP shall clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control practices and other protective practices identified in the SWMP, in good and effective operating condition.

D. TERMS AND CONDITIONS

1. **General Limitations**

The following limitations shall apply to all discharges covered by this permit:

- a) Stormwater discharges from construction activities shall not cause, have the reasonable potential to cause, or measurably contribute to an exceedance of any water quality standard, including narrative standards for water quality.
- b) Concrete washout water shall not be discharged to state surface waters or to storm sewer systems. On-site permanent disposal of concrete washout waste is not authorized by this permit. Discharge to the ground of concrete washout waste that will subsequently be disposed of off-site is authorized by this permit. See Part I.D.3.c of the permit.
- c) Bulk storage structures for petroleum products and any other chemicals shall have secondary containment or equivalent adequate protection so as to contain all spills and prevent any spilled material from entering State waters.
- d) No chemicals are to be added to the discharge unless permission for the use of a specific chemical is granted by the Division. In granting the use of such chemicals, special conditions and monitoring may be addressed by separate correspondence.
- e) The Division reserves the right to require sampling and testing, on a case-by-case basis, in the event that there is reason to suspect that compliance with the SWMP is a problem, or to measure the effectiveness of the BMPs in removing pollutants in the effluent. Such monitoring may include Whole Effluent Toxicity testing.
- f) All site wastes must be properly managed to prevent potential pollution of State waters. This permit does not authorize on-site waste disposal.
- g) All dischargers must comply with the lawful requirements of federal agencies, municipalities, counties, drainage districts and other local agencies regarding any discharges of stormwater to storm drain systems or other water courses under their jurisdiction, including applicable requirements in municipal stormwater management programs developed to comply with CDPS permits. Dischargers must comply with local stormwater management requirements, policies or guidelines including erosion and sediment control.

2. **BMP Implementation and Design Standards**

Facilities must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity to prevent pollution or degradation of State waters.

D. TERMS AND CONDITIONS (cont.)

3. **Prohibition of Non-Stormwater Discharges**

- a) Except as provided in paragraphs b, c, and d below, **all discharges covered by this permit shall be composed entirely of stormwater associated with construction activity.** Discharges of material other than stormwater must be addressed in a separate CDPS permit issued for that discharge.
- b) Discharges from the following sources that are combined with stormwater discharges associated with construction activity may be authorized by this permit, provided that the non-stormwater component of the discharge is identified in the SWMP (see Part I.C.1.g of this permit):
 - emergency fire fighting activities
 - landscape irrigation return flow
 - uncontaminated springs
- c) Discharges to the ground of concrete washout water from washing of tools and concrete mixer chutes may be authorized by this permit, provided that:
 - 1) the source is identified in the SWMP;
 - 2) BMPs are included in the SWMP in accordance with Part I.C.3(c)(7) and to prevent pollution of groundwater in violation of Part I.D.1.a; and
 - 3) these discharges do not leave the site as surface runoff or to surface waters
- d) Discharges to the ground of water from construction dewatering activities may be authorized by this permit, provided that:
 - 1) the source is groundwater and/or groundwater combined with stormwater that does not contain pollutants in concentrations exceeding the State groundwater standards in Regulations 5 CCR 1002-41 and 42;
 - 2) the source is identified in the SWMP;
 - 3) BMPs are included in the SWMP, as required by Part I.C.3(c)(8); and
 - 4) these discharges do not leave the site as surface runoff or to surface waters.

Discharges to the ground from construction dewatering activities that do not meet the above criteria must be covered under a separate CDPS discharge permit. Contaminated groundwater requiring coverage under a separate CDPS discharge permit may include groundwater contaminated with pollutants from a landfill, mining activity, industrial pollutant plume, underground storage tank, or other source.

4. **Releases in Excess of Reportable Quantities**

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 or 40 CFR 302. Any discharge of hazardous material must be handled in accordance with the Division's Noncompliance Notification Requirements (see Part II.A.3 of the permit).

5. **SWMP Requirements**

- a) **SWMP Preparation and Implementation:** The SWMP shall be prepared prior to applying for coverage under the general permit, and certification of its completion submitted with the application. The SWMP shall be implemented prior to commencement of construction activities. The plan shall be updated as appropriate (see paragraph c, below), below). SWMP provisions shall be implemented until expiration or inactivation of permit coverage.
- b) **SWMP Retention Requirements:** A copy of the SWMP must be retained on site unless another location, specified by the permittee, is approved by the Division.
- c) **SWMP Review/Changes:** The permittee shall amend the SWMP:
 - 1) when there is a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs; or
 - 2) if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity; or

D. TERMS AND CONDITIONS (cont.)

- 3) when BMPs are no longer necessary and are removed.

SWMP changes shall be made prior to changes in the site conditions, except as allowed for in paragraph d, below. SWMP revisions may include, but are not limited to: potential pollutant source identification; selection of appropriate BMPs for site conditions; BMP maintenance procedures; and interim and final stabilization practices. The SWMP changes may include a schedule for further BMP design and implementation, provided that, if any interim BMPs are needed to comply with the permit, they are also included in the SWMP and implemented during the interim period.

- d) **Responsive SWMP Changes:** SWMP changes addressing BMP installation and/or implementation are often required to be made in response to changing conditions, or when current BMPs are determined ineffective. The majority of SWMP revisions to address these changes can be made immediately with quick in-the-field revisions to the SWMP. In the less common scenario where more complex development of materials to modify the SWMP is necessary, SWMP revisions shall be made in accordance with the following requirements:
 - 1) the SWMP shall be revised as soon as practicable, but in no case more than 72 hours after the change(s) in BMP installation and/or implementation occur at the site, and
 - 2) a notation must be included in the SWMP prior to the site change(s) that includes the time and date of the change(s) in the field, an identification of the BMP(s) removed or added, and the location(s) of those BMP(s).

6. **Inspections**

Site inspections must be conducted in accordance with the following requirements and minimum schedules. The required minimum inspection schedules do not reduce or eliminate the permittee's responsibility to implement and maintain BMPs in good and effective operational condition, and in accordance with the SWMP, which could require more frequent inspections.

- a) **Minimum Inspection Schedule:** The permittee shall, at a minimum, make a thorough inspection, in accordance with the requirements in I.D.6.b below, at least once every 14 calendar days. Also, post-storm event inspections must be conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion. Provided the timing is appropriate, the post-storm inspections may be used to fulfill the 14-day routine inspection requirement. A more frequent inspection schedule than the minimum inspections described may be necessary, to ensure that BMPs continue to operate as needed to comply with the permit. The following conditional modifications to this Minimum Inspection Schedule are allowed:
 - 1) **Post-Storm Event Inspections at Temporarily Idle Sites** – If no construction activities will occur following a storm event, post-storm event inspections shall be conducted prior to re-commencing construction activities, but no later than 72 hours following the storm event. The occurrence of any such delayed inspection must be documented in the inspection record. Routine inspections still must be conducted at least every 14 calendar days.
 - 2) **Inspections at Completed Sites/Areas** – For sites or portions of sites that meet the following criteria, but final stabilization has not been achieved due to a vegetative cover that has not become established, the permittee shall make a thorough inspection of their stormwater management system at least once every month, and post-storm event inspections are not required. This reduced inspection schedule is *only* allowed if:
 - i) all construction activities that will result in surface ground disturbance are completed;
 - ii) all activities required for final stabilization, in accordance with the SWMP, have been completed, with the exception of the application of seed that has not occurred due to seasonal conditions or the necessity for additional seed application to augment previous efforts; and
 - iii) the SWMP has been amended to indicate those areas that will be inspected in accordance with the reduced schedule allowed for in this paragraph.

D. TERMS AND CONDITIONS (cont.)

- 3) **Winter Conditions Inspections Exclusion** – Inspections are not required at sites where construction activities are temporarily halted, snow cover exists over the entire site for an extended period, and melting conditions posing a risk of surface erosion do not exist. This exception is applicable only during the period where melting conditions do not exist, and applies to the routine 14-day and monthly inspections, as well as the post-storm-event inspections. The following information must be documented in the inspection record for use of this exclusion: dates when snow cover occurred, date when construction activities ceased, and date melting conditions began. Inspections, as described above, are required at all other times.

When site conditions make the schedule required in this section impractical, the permittee may petition the Division to grant an alternate inspection schedule.

b) **Inspection Requirements**

- 1) **Inspection Scope** - The construction site perimeter, all disturbed areas, material and/or waste storage areas that are exposed to precipitation, discharge locations, and locations where vehicles access the site shall be inspected for evidence of, or the potential for, pollutants leaving the construction site boundaries, entering the stormwater drainage system, or discharging to state waters. All erosion and sediment control practices identified in the SWMP shall be evaluated to ensure that they are maintained and operating correctly.
- 2) **Inspection Report/Records** - The permittee shall keep a record of inspections. Inspection reports must identify any incidents of non-compliance with the terms and conditions of this permit. Inspection records must be retained for three years from expiration or inactivation of permit coverage. At a minimum, the inspection report must include:
- i) The inspection date;
 - ii) Name(s) and title(s) of personnel making the inspection;
 - iii) Location(s) of discharges of sediment or other pollutants from the site;
 - iv) Location(s) of BMPs that need to be maintained;
 - v) Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
 - vi) Location(s) where additional BMPs are needed that were not in place at the time of inspection;
 - vii) Deviations from the minimum inspection schedule as provided in Part I.D.6.a above;
 - vii) Description of corrective action for items iii, iv, v, and vi, above, dates corrective action(s) taken, and measures taken to prevent future violations, including requisite changes to the SWMP, as necessary; and
 - viii) After adequate corrective action(s) has been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a signed statement indicating the site is in compliance with the permit to the best of the signer's knowledge and belief.
- c) **Required Actions Following Site Inspections** – Where site inspections note the need for BMP maintenance activities, BMPs must be maintained in accordance with the SWMP and Part I.D.7 of the permit. Repair, replacement, or installation of new BMPs determined necessary during site inspections to address ineffective or inadequate BMPs must be conducted in accordance with Part I.D.8 of the permit. SWMP updates required as a result of deficiencies in the SWMP noted during site inspections shall be made in accordance with Part I.D.5.c of the permit.

7. **BMP Maintenance**

All erosion and sediment control practices and other protective measures identified in the SWMP must be maintained in effective operating condition. Proper selection and installation of BMPs and implementation of comprehensive Inspection and Maintenance procedures, in accordance with the SWMP, should be adequate to meet this condition. BMPs that are not adequately maintained in accordance with good engineering, hydrologic and pollution control practices, including removal of collected sediment outside the acceptable tolerances of the BMPs, are considered to be no longer operating effectively and must be addressed in accordance with Part I.D.8, below. A specific timeline for implementing maintenance procedures is not included in this permit because BMP maintenance is expected to be proactive, not responsive. Observations resulting in BMP maintenance activities can be made during a site inspection, or during general observations of site conditions.

D. TERMS AND CONDITIONS (cont.)

8. **Replacement and Failed BMPs**

Adequate site assessment must be performed as part of comprehensive Inspection and Maintenance procedures, to assess the adequacy of BMPs at the site, and the necessity of changes to those BMPs to ensure continued effective performance. Where site assessment results in the determination that new or replacement BMPs are necessary, the BMPs must be installed to ensure on-going implementation of BMPs as per Part I.D.2.

Where BMPs have failed, resulting in noncompliance with Part I.D.2, they must be addressed as soon as possible, immediately in most cases, to minimize the discharge of pollutants.

When new BMPs are installed or BMPs are replaced, the SWMP must be updated in accordance with Part I.D.5(c).

9. **Reporting**

No scheduled reporting requirements are included in this permit; however, the Division reserves the right to request that a copy of the inspection reports be submitted.

10. **SWMP Availability**

A copy of the SWMP shall be provided upon request to the Division, EPA, or any local agency in charge of approving sediment and erosion plans, grading plans or stormwater management plans, and within the time frame specified in the request. If the SWMP is required to be submitted to any of these entities, it must include a signed certification in accordance with Part I.F.1 of the permit, certifying that the SWMP is complete and meets all permit requirements.

All SWMPs required under this permit are considered reports that shall be available to the public under Section 308(b) of the CWA and Section 61.5(4) of the Colorado Discharge Permit System Regulations. The permittee shall make plans available to members of the public upon request. However, the permittee may claim any portion of a SWMP as confidential in accordance with 40 CFR Part 2.

11. **Total Maximum Daily Load (TMDL)**

If a TMDL has been approved for any waterbody into which the permittee discharges, and stormwater discharges associated with construction activity have been assigned a pollutant-specific Wasteload Allocation (WLA) under the TMDL, the Division will either:

- a) Ensure that the WLA is being implemented properly through alternative local requirements, such as by a municipal stormwater permit; or
- b) Notify the permittee of the WLA, and amend the permittee's certification to add specific BMPs and/or other requirements, as appropriate. The permittee may be required to do the following:
 - 1) Under the permittee's SWMP, implement specific management practices based on requirements of the WLA, and evaluate whether the requirements are being met through implementation of existing stormwater BMPs or if additional BMPs are necessary. Document the calculations or other evidence that show that the requirements are expected to be met; and
 - 2) If the evaluation shows that additional or modified BMPs are necessary, describe the type and schedule for the BMP additions/revisions.

Discharge monitoring may also be required. The permittee may maintain coverage under the general permit provided they comply with the applicable requirements outlined above. The Division reserves the right to require individual or alternate general permit coverage.

E. ADDITIONAL DEFINITIONS

For the purposes of this permit:

1. **Best Management Practices (BMPs):** schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, pollution prevention, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage.
2. **Dedicated asphalt plants and concrete plants:** portable asphalt plants and concrete plants that are located on or adjacent to a construction site and that provide materials only to that specific construction site.
3. **Final stabilization:** when all ground surface disturbing activities at the site have been completed, and uniform vegetative cover has been established with an individual plant density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. For purposes of this permit, establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site will be considered final stabilization.
4. **Municipal separate storm sewer system:** a conveyance or system of conveyances (including: roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by a State, city, town, county, district, or other public body (created by state law), having jurisdiction over disposal of sewage, industrial waste, stormwater, or other wastes; designed or used for collecting or conveying stormwater.
5. **Operator:** the entity that has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties, in some circumstances. It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of 'operator' and that the permit may be transferred as the roles change.
6. **Outfall:** a point source at the point where stormwater leaves the construction site and discharges to a receiving water or a stormwater collection system.
7. **Part of a larger common plan of development or sale:** a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules.
8. **Point source:** any discernible, confined and discrete conveyance from which pollutants are or may be discharged. Point source discharges of stormwater result from structures which increase the imperviousness of the ground which acts to collect runoff, with runoff being conveyed along the resulting drainage or grading pattern.
9. **Pollutant:** dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal or agricultural waste.
10. **Process water:** any water which, during manufacturing or processing, comes into contact with or results from the production of any raw material, intermediate product, finished product, by product or waste product. This definition includes mine drainage.
11. **Receiving Water:** any classified stream segment (including tributaries) in the State of Colorado into which stormwater related to construction activities discharges. This definition includes all water courses, even if they are usually dry, such as borrow ditches, arroyos, and other unnamed waterways.
12. **Significant Materials** include, but are not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharge.
13. **Stormwater:** precipitation-induced surface runoff.

F. GENERAL REQUIREMENTS

1. **Signatory Requirements**

- a) All reports required for submittal shall be signed and certified for accuracy by the permittee in accordance with the following criteria:
 - 1) In the case of corporations, by a principal executive officer of at least the level of vice-president or his or her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates;
 - 2) In the case of a partnership, by a general partner;
 - 3) In the case of a sole proprietorship, by the proprietor;
 - 4) In the case of a municipal, state, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee, if such representative is responsible for the overall operation of the facility from which the discharge described in the form originates.
- b) **Changes to authorization.** If an authorization under paragraph a) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph a) of this section must be submitted to the Division, prior to or together with any reports, information, or applications to be signed by an authorized representative.
- c) **Certification.** Any person signing a document under paragraph a) of this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

2. **Retention of Records**

- a) The permittee shall retain copies of the SWMP and all reports required by this permit and records of all data used to complete the application to be covered by this permit, for three years after expiration or inactivation of permit coverage.
- b) The permittee shall retain a copy of the SWMP required by this permit at the construction site from the date of project initiation to the date of expiration or inactivation of permit coverage, unless another location, specified by the permittee, is approved by the Division.

3. **Monitoring**

The Division reserves the right to require sampling and testing, on a case-by-case basis (see Part I.D.1.e), for example to implement the provisions of a TMDL (see Part I.D.11 of the permit). Reporting procedures for any monitoring data collected will be included in the notification by the Division of monitoring requirements.

If monitoring is required, the following definitions apply:

- a) The **thirty (30) day average** shall be determined by the arithmetic mean of all samples collected during a thirty (30) consecutive-day period.
- b) A **grab** sample, for monitoring requirements, is a single “dip and take” sample.

PART II

A. MANAGEMENT REQUIREMENTS

1. **Amending a Permit Certification**

The permittee shall inform the Division (Permits Section) in writing of changes to the information provided in the permit application, including the legal contact, the project legal description or map originally submitted with the application, or the planned total disturbed acreage. The permittee shall furnish the Division with any plans and specifications which the Division deems reasonably necessary to evaluate the effect on the discharge and receiving stream. If applicable, this notification may be accomplished through submittal of an application for a CDPS process water permit authorizing the discharge. The SWMP shall be updated and implemented prior to the changes (see Part I.D.5.c).

Any discharge to the waters of the State from a point source other than specifically authorized by this permit or a different CDPS permit is prohibited.

2. **Special Notifications - Definitions**

- a) **Spill:** An unintentional release of solid or liquid material which may cause pollution of state waters.
- b) **Upset:** An exceptional incident in which there is unintentional and temporary noncompliance with permit discharge limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

3. **Noncompliance Notification**

- a) The permittee shall report the following instances of noncompliance:
 - 1) Any noncompliance which may endanger health or the environment;
 - 2) Any spill or discharge of hazardous substances or oil which may cause pollution of the waters of the state.
 - 3) Any discharge of stormwater which may cause an exceedance of a water quality standard.
- b) For all instances of noncompliance based on environmental hazards and chemical spills and releases, all needed information must be provided orally to the Colorado Department of Public Health and Environment spill reporting line (24-hour number for environmental hazards and chemical spills and releases: 1-877-518-5608) within 24 hours from the time the permittee becomes aware of the circumstances.

For all other instances of noncompliance as defined in this section, all needed information must be provided orally to the Water Quality Control Division within 24 hours from the time the permittee becomes aware of the circumstances.

For all instances of noncompliance identified here, a written submission shall also be provided within 5 calendar days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of:

- 1) The noncompliance and its cause;
- 2) The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue;
- 3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

A. MANAGEMENT REQUIREMENTS (cont.)

4. **Submission of Incorrect or Incomplete Information**

Where the permittee failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or report to the Division, or relevant new information becomes available, the permittee shall promptly submit the relevant application information which was not submitted or any additional information needed to correct any erroneous information previously submitted.

5. **Bypass**

- a) A bypass, which causes effluent limitations (i.e., requirements to implement BMPs in accordance with Parts I.B.3 and I.D.2 of the permit) to be exceeded is prohibited, and the Division may take enforcement action against a permittee for such a bypass, unless:
 - 1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities (e.g., alternative BMPs), retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment (e.g., implemented additional BMPs) to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - 3) The permittee submitted notices as required in "Non-Compliance Notification," Part II.A.3.

6. **Upsets**

- a) **Effect of an Upset:** An upset constitutes an affirmative defense to an action brought for noncompliance with permit limitations and requirements if the requirements of paragraph b of this section are met. (No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.)
- b) **Conditions Necessary for a Demonstration of Upset:** A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed contemporaneous operating logs, or other relevant evidence that:
 - 1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;
 - 2) The permitted facility was at the time being properly operated;
 - 3) The permittee submitted notice of the upset as required in Part II.A.3. of this permit (24-hour notice); and
 - 4) The permittee complied with any remedial measures required under 40 CFR Section 122.41(d) of the federal regulations or Section 61.8(3)(h) of the Colorado Discharge Permit System Regulations.
- c) **Burden of Proof:** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

7. **Removed Substances**

Solids, sludges, or other pollutants removed in the course of treatment or control of discharges shall be properly disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State.

8. **Minimization of Adverse Impact**

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the State resulting from noncompliance with any terms and conditions specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

A. MANAGEMENT REQUIREMENTS (cont.)

9. **Reduction, Loss, or Failure of Stormwater Controls**

The permittee has the duty to halt or reduce any activity if necessary to maintain compliance with the permit requirements. Upon reduction, loss, or failure of any stormwater controls, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, or remove all pollutant sources from exposure to stormwater, or both, until the stormwater controls are restored or an alternative method of treatment/control is provided.

It shall not be a defense for a permittee in an enforcement action that it would be necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

10. **Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

B. RESPONSIBILITIES

1. **Inspections and Right to Entry**

The permittee shall allow the Director of the State Water Quality Control Division, the EPA Regional Administrator, and/or their authorized representative(s), upon the presentation of credentials:

- a) To enter upon the permittee's premises where a regulated facility or activity is located or in which any records are required to be kept under the terms and conditions of this permit;
- b) At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in the permit; and
- c) To enter upon the permittee's premises to investigate, within reason, any actual, suspected, or potential source of water pollution, or any violation of the Colorado Water Quality Control Act. The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs, interviewing permittee staff on alleged violations and other matters related to the permit, and access to any and all facilities or areas within the permittee's premises that may have any effect on the discharge, permit, or any alleged violation.

2. **Duty to Provide Information**

The permittee shall furnish to the Division, within the time frame specified by the Division, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or inactivating coverage under this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.

3. **Transfer of Ownership or Control**

Certification under this permit may be transferred to a new permittee if:

- a) The current permittee notifies the Division in writing when the transfer is desired as outlined in Part I.A.7; and
- b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
- c) The current permittee has met all fee requirements of the Colorado Discharge Permit System Regulations, Section 61.15.

B. RESPONSIBILITIES (cont.)

4. **Modification, Suspension, or Revocation of Permit By Division**

All permit modification, inactivation or revocation and reissuance actions shall be subject to the requirements of the Colorado Discharge Permit System Regulations, Sections 61.5(2), 61.5(3), 61.7 and 61.15, 5 C.C.R. 1002-61, except for minor modifications.

- a) This permit, and/or certification under this permit, may be modified, suspended, or revoked in whole or in part during its term for reasons determined by the Division including, but not limited to, the following:
 - 1) Violation of any terms or conditions of the permit;
 - 2) Obtaining a permit by misrepresentation or failing to disclose any fact which is material to the granting or denial of a permit or to the establishment of terms or conditions of the permit;
 - 3) Materially false or inaccurate statements or information in the application for the permit;
 - 4) Promulgation of toxic effluent standards or prohibitions (including any schedule of compliance specified in such effluent standard or prohibition) which are established under Section 307 of the Clean Water Act, where such a toxic pollutant is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.
- b) This permit, and/or certification under this permit, may be modified in whole or in part due to a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge, such as:
 - 1) Promulgation of Water Quality Standards applicable to waters affected by the permitted discharge; or
 - 2) Effluent limitations or other requirements applicable pursuant to the State Act or federal requirements; or
 - 3) Control regulations promulgated; or
 - 4) Other available information indicates a potential for violation of adopted Water Quality Standards or stream classifications.
- c) This permit, or certification under this permit, may be modified in whole or in part to include new effluent limitations and other appropriate permit conditions where data submitted pursuant to Part I indicate that such effluent limitations and permit conditions are necessary to ensure compliance with applicable water quality standards and protection of classified uses.
- d) At the request of the permittee, the Division may modify or inactivate certification under this permit if the following conditions are met:
 - 1) In the case of inactivation, the permittee notifies the Division of its intent to inactivate the certification, and certifies that the site has been finally stabilized;
 - 2) In the case of inactivation, the permittee has ceased any and all discharges to state waters and demonstrates to the Division there is no probability of further uncontrolled discharge(s) which may affect waters of the State.
 - 3) The Division finds that the permittee has shown reasonable grounds consistent with the Federal and State statutes and regulations for such modification, amendment or inactivation;
 - 4) Fee requirements of Section 61.15 of the Colorado Discharge Permit System Regulations have been met; and
 - 5) Applicable requirements of public notice have been met.

For small construction sites covered by a Qualifying Local Program, coverage under this permit is automatically terminated when a site has been finally stabilized.

B. RESPONSIBILITIES (cont.)

5. **Permit Violations**

Failure to comply with any terms and/or conditions of this permit shall be a violation of this permit.

Dischargers of stormwater associated with industrial activity, as defined in the EPA Stormwater Regulation (40 CFR 122.26(b)(14) and Section 61.3(2) of the Colorado Discharge Permit System Regulations, which do not obtain coverage under this or other Colorado general permits, or under an individual CDPS permit regulating industrial stormwater, will be in violation of the federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101, as amended. Failure to comply with CDPS permit requirements will also constitute a violation.

6. **Legal Responsibilities**

The issuance of this permit does not convey any property or water rights in either real or personal property, or stream flows, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority granted by Section 510 of the Clean Water Act.

7. **Severability**

The provisions of this permit are severable. If any provisions of this permit, or the application of any provision of this permit to any circumstance, are held invalid, the application of such provision to other circumstances and the application of the remainder of this permit shall not be affected.

8. **Renewal Application**

If the permittee desires to continue to discharge, a permit renewal application shall be submitted at least ninety (90) days before this permit expires. If the permittee anticipates that there will be no discharge after the expiration date of this permit, the Division should be promptly notified so that it can inactivate the certification in accordance with Part II.B.4.d.

9. **Confidentiality**

Except for data determined to be confidential under Section 308 of the Federal Clean Water Act and Colorado Discharge Permit System Regulations, Section 61.5(4), all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division. The permittee must state what is confidential at the time of submittal.

Any information relating to any secret process, method of manufacture or production, or sales or marketing data which has been declared confidential by the permittee, and which may be acquired, ascertained, or discovered, whether in any sampling investigation, emergency investigation, or otherwise, shall not be publicly disclosed by any member, officer, or employee of the Commission or the Division, but shall be kept confidential. Any person seeking to invoke the protection of this section shall bear the burden of proving its applicability. This section shall never be interpreted as preventing full disclosure of effluent data.

10. **Fees**

The permittee is required to submit payment of an annual fee as set forth in the Water Quality Control Act. Failure to submit the required fee when due and payable is a violation of the permit and will result in enforcement action pursuant to Section 25-8-601 et. seq., C.R.S. 1973 as amended.

B. RESPONSIBILITIES (cont.)

11. **Requiring an Individual CDPS Permit**

The Director may require the permittee to apply for and obtain an individual or alternate general CDPS permit if:

- a) The discharger is not in compliance with the conditions of this general permit;
- b) Conditions or standards have changed so that the discharge no longer qualifies for a general permit; or
- c) Data/information become available which indicate water quality standards may be violated.

The permittee must be notified in writing that an application for an individual or alternate general CDPS permit is required. When an individual or alternate general CDPS permit is issued to an operator otherwise covered under this general permit, the applicability of this general permit to that operator is automatically inactivated upon the effective date of the individual or alternate general CDPS permit.